

Federal Housing Finance Board

§ 908.22

§ 908.14 No implied private right of action.

This part shall not create any private right of action on behalf of any person against a Bank or any director or executive officer of a Bank or impair any existing private right of action under applicable law.

§§ 908.15–908.19 [Reserved]

Subpart C—General Rules

§ 908.20 Authority of the Board of Directors.

The Board of Directors may, at any time during the pendency of a proceeding under this part, perform, direct the performance of, or waive the performance of any act that could be done or ordered by the presiding officer.

§ 908.21 Authority of the presiding officer.

(a) *General rule.* All cease and desist or civil money penalty proceedings governed by this subpart shall be conducted in a hearing on the record in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 551–559. The presiding officer shall have complete charge of the hearing, conduct a fair and impartial hearing, avoid unnecessary delay, and assure that a record of the hearing is made.

(b) *Powers.* The presiding officer shall have all powers necessary to conduct the hearing in accordance with paragraph (a) of this section and 5 U.S.C. 556(c). The presiding officer is authorized to—

(1) Set and change the date, time and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding, including settlement conferences, mediation or other consensual methods of dispute resolution;

(4) Administer oaths and affirmations;

(5) Issue subpoenas, subpoenas *duces tecum*, and protective orders, as author-

ized by this part, and to revoke, quash, or modify such subpoenas;

(6) Take and preserve testimony under oath;

(7) Rule on motions and other procedural matters appropriate in a hearing, except that only the Board of Directors shall have the power to grant any motion to dismiss a cease and desist or civil money penalty proceeding or to make a final determination on the merits of such proceedings;

(8) Regulate the scope and timing of discovery;

(9) Regulate the course of the hearing and the conduct of representatives and parties;

(10) Examine witnesses;

(11) Receive, exclude, limit, or otherwise rule on evidence;

(12) Upon motion of a party, take official notice of facts;

(13) Recuse herself/himself upon motion made by a party or on her or his own motion;

(14) Prepare and present to the Board of Directors a recommended decision as provided in this part;

(15) Establish time, place and manner limitations on the attendance of the public and the media for any public hearing; and

(16) Do all other things necessary and appropriate to discharge the duties of a presiding officer.

§ 908.22 Public hearings.

(a) *General rule.* All hearings shall be open to the public, unless the Finance Board, in its discretion, determines that holding an open hearing would be contrary to the public interest. The Finance Board may make such determination *sua sponte* at any time by written notice to all parties.

(b) *Motion for closed hearing.* Within twenty (20) days of service of a notice, any party or respondent may file with the presiding officer a motion for a non-public hearing and any party may file a pleading in reply to the motion. The presiding officer shall forward the motion and any reply, together with a recommended decision on the motion, to the Board of Directors, who shall make a final determination. Such motions and replies shall be governed by § 908.45.